

DECISION nr 82/13.12.2012

having as object the alleged infringement of the provisions of article 5 (1) of the Competition Law no. 21/1996, republished, with subsequent amendments and completions (hereinafter *Law*) and of article 101 (1) of the Treaty regarding the functioning of the European Union (hereinafter *Treaty*), by S.C. Plastidrum S.R.L., S.C. Signature Semnalizare S.R.L., S.C. Swarco România S.R.L., Swarco Heoscont Strassenmarkierung GmbH and Eleftherios Kokkinakis LTD that participated at the public procurement procedure organized by National Company of Motorway and National Roads in Romania S.A. in order to allocate the contract “ Work of longitudinal, transversal and varried road bonds for national roads administrated by C.N.A.D.N.R. S.A.” for lote 2 – Craiova and lote 6 – Iași, with the opening date of bids on the 8th and 9th of June 2006

In 2006, C.N.A.D.N.R. organized a public procurement procedure in order to allocate a work contract for road bonds on the national roads administrated by and subordinated to the seven regional directorates. The analyzed facts concern the anticompetitive behaviour of the involved parties that participated at the public procurement procedure for lots 2 and 6 having as object the national roads administrated by D.R.D.P. Craiova and D.R.D.P. Iași.

The five involved parties in the investigated anticompetitive practice were organized in two associations in order to participate at the public procurement as follows: “Plastidrum Association” for the undertakings S.C. Plastidrum S.R.L. and S.C. Signature Semnalizare S.R.L. and „Swarco Association” for the undertakings S.C. Swarco România S.R.L., Swarco Heoscont Strassenmarkierung GmbH and Eleftherios Kokkinakis LTD.

During the investigation the following facts were revealed:

- Cooperation between the two associations starting from the end of 2005 through the exchange of documents and sensitive information regarding the behaviour adopted by each association that participated to the public procurement procedures organized by C.N.A.D.N.R. in 2006;
- The artificial increase of prices submitted by Plastidrum Association for lots 2 and 6 and winning the two contracts at a higher price than in the case competition would not have been distorted by the agreement between the two associations;
- The transfer of the public tender contracts to Swarco Association afferent to lots 2 and 6 signed between Plastidrum and D.R.D.P. Craiova and D.R.D.P. Iași.

The investigation team concluded that the two associations have participated with rigged bids in the auction organized by CNADNR in 2006 as during the public procurement procedure the two associations did not participated independently, coordinated their actions and it is reflected in their offers that were not the expression of a real competition.

Competition Council decided to sanction S.C. Plastidrum S.R.L., S.C. Signature Semnalizare S.R.L., Swarco Heoscont Strassenmarkierung GmbH and Eleftherios Kokkinakis LTD for the infringement of Article 5 (1) letter f) of the Law through participation with rigged bids in a public tender.